

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL STRAUSBAUGH,
Plaintiff,

v.

GREEN TREE SERVICING, LLC, et al.
Defendant,

: CIVIL ACTION
:
:
: NO.: 1:15-CV-01433
:
:
:

ORDER

AND NOW, this _____ day of _____, 2017, upon consideration of the Motion of Defendant Lori Hogue to Dismiss Plaintiff's Second Amended Complaint, it is hereby ORDERED and DECREED that said Motion is GRANTED. Plaintiff's Second Amended Complaint is hereby DISMISSED with prejudice in its entirety.

BY THE COURT:

J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL STRAUSBAUGH,	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	NO.: 1:15-CV-01433
	:	
GREEN TREE SERVICING, LLC, et al.	:	
Defendant,	:	

**MOTION OF DEFENDANT LORI HOGUE TO DISMISS PLAINTIFF'S
SECOND AMENDED COMPLAINT**

Defendant, Lori Hogue, by her attorney, respectfully moves to dismiss the Second Amended Complaint of Plaintiff, Michael Strausbaugh, pursuant to the Federal Rules of Civil Procedure, Rule 12(b)(6) for failure to state a claim upon which relief can be granted.

1. Plaintiff initiated this action by filing a Complaint on March 25, 2015 in the United States District Court for the District of Arizona.
2. The case was subsequently transferred to the Middle District of Pennsylvania in accordance with 28 U.S.C. § 1406, where Magistrate Judge Karoline Mehalchick did the required prescreening of a *pro se*, prisoner Complaint.
3. Judge Mehalchick called for the Complaint to be largely dismissed, but Chief Judge Christopher C. Conner granted Plaintiff leave to file an Amended Complaint.
4. Plaintiff subsequently filed a Seconded Amended Complaint to which this Motion is responsive.
5. Plaintiff is essentially challenging a mortgage foreclosure proceeding, which

was already litigated in state court.

6. With respect to the Moving Defendant, Plaintiff alleges apparent claims under 42 U.S.C. § 1983 for interference with his rights under the Fifth and First Amendment, as well as a claim for fraud.

7. The summary of Plaintiff's Second Amended Complaint allegations against Defendant Hogue are that she allegedly failed to send him a complete copy of the case file sometime in December of 2012 and that she failed to file two Motions dated February 11, 2013 and March 8, 2013.

8. Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, moving Defendant moves for an Order dismissing Counts 17, 18 and 19 for failure to state a claim against the moving Defendant upon which relief can be granted.

WHEREFORE, Defendant Hogue respectfully requests this Honorable Court enter and Order dismissing Plaintiff's Second Amended Complaint as against Defendant Hogue.

Respectfully submitted,

CAMPBELL & WHITE, P.C.

Dated: December 1, 2017

s/Todd A. King

Todd A. King

Attorney I.D. # 309197

112 Baltimore Street, Suite 1

Gettysburg, PA 17325

tking@campbellandwhite.com

Attorney for Defendant Lori Hogue

**CERTIFICATE OF NON-CONCURRENCE REGARDING DEFENDANT
HOGUE'S MOTION TO DISMISS**

No concurrence has been sought because this action is a *pro se* prisoner case. M.D. Pa.
Local Rule 7.1.

s/ Todd A. King
Todd A. King

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of December, 2017, the foregoing Motion to Dismiss was filed electronically, which will send notice to all users of the CM/ECF system. Additionally a copy was served via U.S. Mail, postage prepaid upon the following:

Michael Strausbaugh
Reg. No. 69878-067
United States Penitentiary, Tucson
P.O. Box 24550
Tucson, Arizona 85734

s/ Todd A. King
Todd A. King